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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/751,386      | 01/05/2004  | Eric Engler          | 90564.1             | 2664             |

23573 7590 09/16/2004

HOLLAND & KNIGHT, LLP  
ONE EAST BROWARD BLVD.  
SUITE 1300  
FT LAUDERDALE, FL 33301

EXAMINER

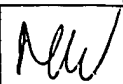
LEE, JONG SUK

| ART UNIT | PAPER NUMBER |
|----------|--------------|
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3673

DATE MAILED: 09/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                      |              |   |
|------------------------------|----------------------|--------------|---|
| <b>Office Action Summary</b> | Application No.      | Applicant(s) |   |
|                              | 10/751,386           | ENGLER, ERIC |   |
|                              | Examiner             | Art Unit     |   |
|                              | Jong-Suk (James) Lee | 3673         |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 19-35 is/are allowed.
- 6) ☒ Claim(s) 1-3 and 5-11 is/are rejected.
- 7) ☒ Claim(s) 4 and 12-18 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 January 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>4/5/2004</u> . | 6) <input type="checkbox"/> Other: ____.  |

## **DETAILED ACTION**

### ***Drawings***

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, "said bottom wall is formed with a through bore which intersects said hollow interior" as recited in claim 9 and claim 35, respectively, must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Objections***

2. Claims 2 and 26 are objected to because of the following informalities:

Claim 2, line 2: "one end wall" should be -- one of said end walls --.

Claim 2, lines 2-3: "said other end wall" should be -- the other of said end walls --.

Claim 26, line 3: "one end wall" should be -- one of said end walls --.

Claim 26, line 3: "said other end wall" should be -- the other of said end walls --.

Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-3 and 5-11 are rejected under 35 U.S.C. 102(b) as being anticipated by Chang (US. 3,896,624).

Chang discloses a structure block comprising of: a modular unit having a top wall (A), a bottom wall (B), two side walls (C) and two end walls (D) (see attached figure) which are interconnected to form a hollow interior; each of said side walls (C) having a tapered section formed with a through bore (14) which intersects said hollow interior; each of said end walls (D) extending generally vertically between said bottom wall and said top wall, said end walls each being formed with a through bore which intersects said hollow interior; said top wall being

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formed with a through bore which intersects said hollow interior; a number of supports (22) extending from said bottom wall, said supports (22) being adapted to assist the stabilization of said modular unit on the floor of a body of water, wherein said through bore of one end wall aligns with said through bore of said other end wall, the tapered section of each of the side walls extending at an angle about 45 degrees, wherein, said supports are a number of legs or a lip (22) extending from said bottom wall, wherein, said modular unit forming an artificial reef and marine habitat along the floor of a body of water and being positioned within a body of water relative to a beach at the edge of said body of water to form a sea wall (see Figs. 5-7) and further said bottom wall being formed with a through bore which intersects said hollow interior and the structure further having an anchoring device adapted to rest upon the floor of the body of water, said anchoring device being formed with mounting structure which engages said at least one support to connect said modular unit to said anchoring device (see Fig. 8) (see Figs. 1-9; col.3, lines 57-68; col.4, lines 1-68; col.5, lines 1-68).

***Allowable Subject Matter***

5. Claims 19-35 would be allowable over the prior art of record.
6. Claims 4 and 12-18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

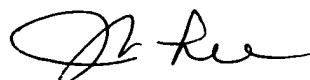
7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Other references cited disclose a panel ditch check for temporary erosion and sediment control, a modular block construction system and a modular block system and method of construction.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jong-Suk (James) Lee whose telephone number is (703) 308-6777. The examiner can normally be reached on 6:30 am to 3:00 pm, Monday thru Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather C. Shackelford, can be reached on (703) 308-2978. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

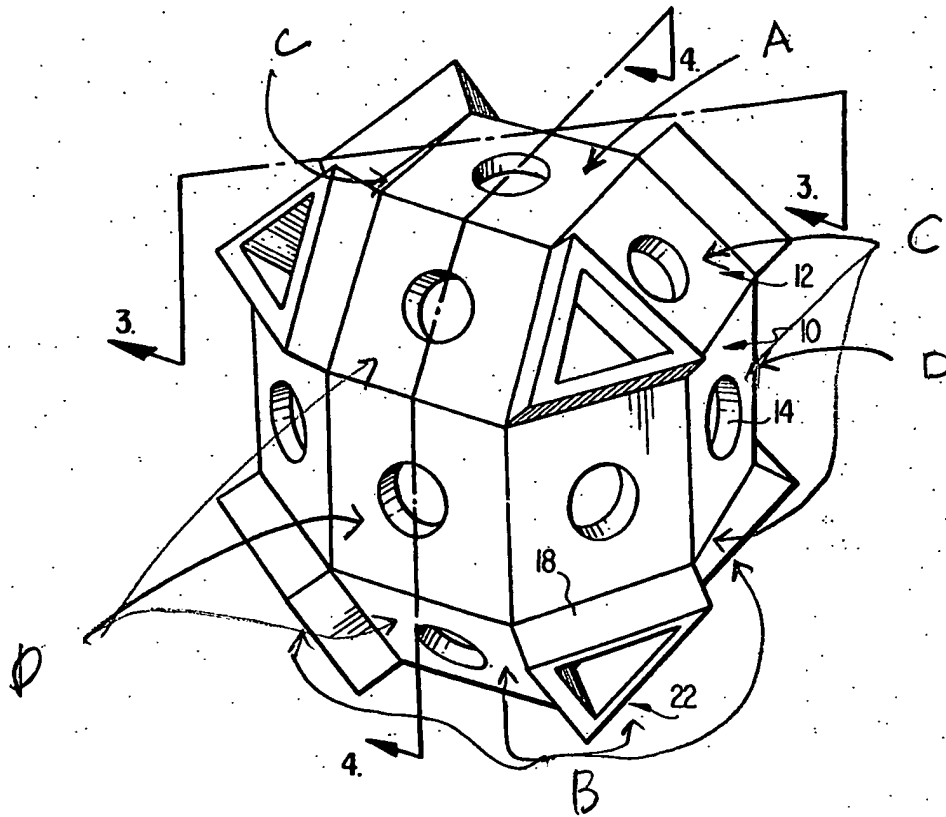
Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

J. Lee /jjl  
September 13, 2004

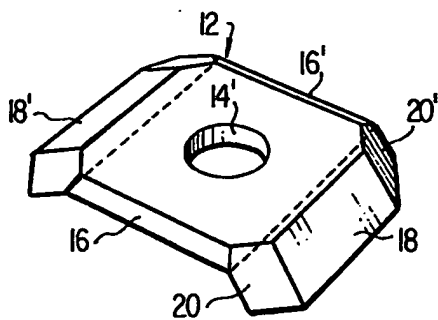


**Jong-Suk (James) Lee  
Primary Examiner  
Art Unit 3673**

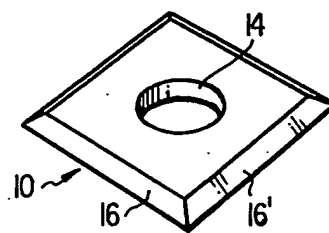
Attachment: Fig.1 of Chang (US 3,896,624)



**Fig. 1**



**Fig. 2A**



**Fig. 2B**